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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SEYFARTH SHAW LLP 55 EAST MONROE STREET SUITE 4200 CHICAGO, IL 60603-5803			EXAMINER HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,985

Applicant(s)

PARISE ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 17-20 and 23-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 17-20 & 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 17, line 1, the phrase “removed form a lockable cabinet” is not clearly understood as presently worded. In Claims 17 & 26, the phrase “an open-bottom locker with...doorway at a bottom thereof” is deemed to be unclear, confusing and misdescriptive of the embodiments depicted in the figures since the “doorway” in question is viewed to be located along a vertical side of the locker as opposed to a bottom. In Claim 20, the phrase “providing a retractable shelf in the cabinet and a storing device on the shelf...” is viewed to be misdescriptive of the embodiments depicted since the “retractable shelf” is deemed to be located within the “locker” and not the “cabinet”. In Claim 24, the phrase “is a cabinet” is deemed to constitute a double inclusion of the previously recited “a lockable cabinet” [Is “a cabinet” a new limitation distinct and independent from the previously cited “cabinet” or is “a cabinet” referring to the same limitation of “a lockable cabinet” ?]. In Claims 25 & 26, the phrase “hook-like flange” renders the claims indefinite because the claims may include elements not actually disclosed, thereby rendering the scope of the claims unascertainable [the examiner suggests “hook shaped flange” as an example to obviate this rejection]. Consequently, the remaining claims are rejected because they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer [U.S. Patent No. 4,254,824]. Springer (figures 1-27) teaches the use of providing a cabinet (33) and a locker (26) connected with the cabinet (fig. 4) and having an interior space, an open bottom to facilitate movement of an object (9) into and out of the space, and an opening providing access to the space (all shown in fig. 2); the ability of associating an item with the object; and moving the object into and out of the space, wherein the object is a cart and an item and the cart are capable of being moved with respect to the cabinet and placed in the interior space. Springer teaches applicant's inventive claimed concept as disclosed above, but does not show a "tool" being utilized in combination with the claimed members. According, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute/vary items or contents associated with the structures of the prior art since varying the contents/items for which the structures may be associated with can change depending upon the fluctuating personal preferences or needs of the user. Since the "tools" are not functionally or structurally related in a new or unobvious way to the structures upon which they are associated, the "tools" will not distinguish the invention from the prior art in terms of patentability.

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5. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little [U.S. Patent No. 542,341]. Little (figures 1-2) teaches the use of providing a cabinet (viewed as either A **or** right section of B) and a locker (viewed as either B **or** left section of B) connected with the cabinet (fig. 1) and having an interior space, an open bottom to facilitate movement of an object (C) into and out of the space, and an opening providing access to the space (all shown in fig. 1); the ability of associating an item with the object; and moving the object into and out of the space, wherein the object is a cart and an item and the cart are capable of being moved with respect to the cabinet and placed in the interior space. Little teaches applicant's inventive claimed concept as disclosed above, but does not show a "tool" being utilized in combination with the claimed members. According, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute/vary items or contents associated with the structures of the prior art since varying the contents/items for which the structures may be associated with can change depending upon the fluctuating personal preferences or needs of the user. Since the "tools" are not functionally or structurally related in a new or unobvious way to the structures upon which they are associated, the "tools" will not distinguish the invention from the prior art in terms of patentability.

6. Claims 17-20, 23-24 & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little in view of Boesvert [U.S. Patent No. 5,245,801]. Little teaches applicant's inventive claimed concept as disclosed above, including the locker being provided on an outside of the cabinet (B viewed as being outside of the cabinet [underneath] **or** the left section of B viewed as being outside of the cabinet [to the left of]), rollers (see fig. 1) on the cabinet (B) and a retractable shelf (note the

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shelves/trays/drawers of fig. 1) in the cabinet as best understood by the examiner; but Little does not show the access doorway as having a lockable door and does not show a “tool” being utilized in combination with the claimed members. Boesvert (figures 1-9) is cited as an evidence reference to show that it was known in the art to provide an “open-bottom locker” (10) with a lockable door (21) having a lock (23,24) for closing off a side-access doorway thereby concealing and securing a rolling structure (18) placed within the locker. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a lockable door on the locker of Little as taught by Boesvert because this arrangement would allow Little to conceal the movable cart within the locker in an esthetically and pleasing manner while restricting access to the cart to all but the authorized user. As to the “tools” recitation, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute/vary items or contents associated with the structures of the prior art since varying the contents/items for which the structures may be associated with can change depending upon the fluctuating personal preferences or needs of the user. Since the “tools” are not functionally or structurally related in a new or unobvious way to the structures upon which they are associated, the “tools” will not distinguish the invention from the prior art in terms of patentability.

7. Claims 17-18, 23-24 & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer in view of Boesvert. Springer teaches applicant’s inventive claimed concept as disclosed above, including the locker being provided on an outside of the cabinet (fig. 4); but Springer does not show the access doorway as having a lockable door and does not show a “tool” being utilized in combination with the

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claimed members. Boesvert (figures 1-9) is cited as an evidence reference to show that it was known in the art to provide an "open-bottom locker" (10) with a lockable door (21) having a lock (23,24) for closing off a side-access doorway thereby concealing and securing a rolling structure (18) placed within the locker. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a lockable door on the locker of Springer as taught by Boesvert because this arrangement would allow Springer to conceal the movable cart within the locker in an esthetically and pleasing manner while restricting access to the cart to all but the authorized user. As to the "tools" recitation, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute/vary items or contents associated with the structures of the prior art since varying the contents/items for which the structures may be associated with can change depending upon the fluctuating personal preferences or needs of the user. Since the "tools" are not functionally or structurally related in a new or unobvious way to the structures upon which they are associated, the "tools" will not distinguish the invention from the prior art in terms of patentability.

Allowable Subject Matter

8. Claim 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include **all** of the limitations of the **base claim** and any **intervening claims**.

9. Claim 26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Canadian publication 2,230,736, Japanese publication 405130920, French publication 2,768,596, German publication 29705297, and British publication 477,158.

11. It is noted that applicant has become aware of a product sold by Matco Tools and purported to have sent various materials i.e., an advertisement, a drawing and photographs to the office [three exhibits]. Presently, the examiner is unable to verify that these materials are of record in the instant applicant. Applicant is invited to resend these materials for the examiner's inspection with the next response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
September 15, 2005